FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.3075 OF 2005

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.D.N.Salvi for the petitioners.

Mr.M.E.Mooman for Respondent no.3.

Mr.A.R.Khan for Respondent no.2 & 8

Mr.S.Bhandari for Respondent no.7.

Mr.P.S.Hingorani APP for the State.

Coram : R.S.Mohite,J

Date : 1.2.2006.

PC

1. Heard both sides. The petitioners have impugned an order dated 18.11.2005 passed by the Special Judge rejecting their application at Exh.91 which sought the trial of original accused no.3 to be held jointly with other accused. In the present case on 25.10.2004 this Court (Khanwilkar,J) passed an order in criminal application no.3482/2004 directing that if the trial Court is of the opinion that the presence of accused no.3 cannot be

procured for the purpose of trial in a reasonable time then it may consider to separate the trial for accused no.3. Admittedly, the trial court thereafter separated the trial of accused no.3. Accused no.3 was not available because he was required in some other cases in Madhya Pradesh. Accused no.3 is now available and he is in custody. In the circumstances, I intend to dispose of the petition with some direction. The petitioners will be at liberty to file a formal complaint against accused no.3. APP states that the said complaint will be filed within a period of 2 weeks from today. The said complaint will numbered as a separate case and be tried alongwith NDPS special case no.96/2002. The witnesses who are remaining in NDPS special case 96/2002 will be examined first and by agreement, this evidence will be common in both the cases. On the conclusion of evidence in NDPS case no.96/2002 the Special Court will proceed further in accordance with law and will decide and dispose of the matter. In the fresh complaint to be filed the first 11 witnesses who have been examined in

NDPS special case 96/2002 will be examined afresh and the 2nd complaint will thereafter be decided on merits. With these directions present petition stands disposed of. Application of accused no.3 for bail will be considered in accordance with law.

(R.S.Mohite,J)